IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUMMONS FOR JUDGMENT NO.355 OF 2005

IN

SUMMARY SUIT NO.459 OF 2005

M. J. International. ...Plaintiff.

Versus

Asha S. Raheja. ...Defendant.

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Mr. K.M. John i./b. Mr.Ajay K.J. Panicker for the Plaintiff.
Mr. Arif Bookwala i/b. Ranjit & Co. for the Defendant.

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CORAM : DR. D.Y. CHANDRACHUD, J.

June 19, 2007.

P.C.:

The defences raised in the reply to the Summons for Judgment constitute triable issues which would warrant unconditional leave to defend the suit. The Defendant has denied the authenticity and genuineness of the alleged letter of confirmation dated 9th August 2002 (Exh.B to the Plaint) upon which the suit is founded. The reply of the Defendant, in fact, contains a letter dated 21st September 1998 of the Plaintiff's Constituted Attorney which states that despite repeated requests, the Defendant has not furnished a confirmation.

The Defendant has relied upon letters issued by the Plaintiff to the Defendant seeking confirmation of the balance due and payable and both the letters which are in the custody of the Defendant have been produced on the record. The defence, therefore, is that in fact, there was no confirmation at all of the alleged liability as due and outstanding. Having regard to these defences, triable issues arise. Unconditional leave to defend the suit is granted. Written Statement to be filed within six weeks.

The Summons for Judgment is accordingly disposed of.

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